

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
DOCKET NO. 3:18-cr-309-MOC**

THIS MATTER comes before the Court on the United States' Motion for Order Declaring
Stipulation and Agreement Null and Void (#33).

Judgment was entered against Defendant on August 12, 2019, on a charge of federal program fraud (#22). This Court sentenced her to two years of probation and ordered her to pay a \$100 special assessment and \$11,000 in restitution. To enforce the judgment, the United States obtained a Writ of Execution on October 22, 2019, against a retirement account held in Defendant’s name by the North Carolina Department of the State Treasurer, Retirement Systems Division (“NC Treasurer”) (#29). According to the United States’ Motion, the United States agreed to suspend its demand that the account be liquidated in exchange for monthly payments from Defendant.

On December 2, 2019, the parties filed a Stipulation and Agreement Regarding Retirement Account (the “Stipulation”) memorializing the agreement (#32). Subsequently, the NC Treasurer informed the United States that Defendant’s account would have to be liquidated pursuant to the North Carolina Felony Forfeiture Statutes, N.C. GEN. STAT. § 128-38.4 and N.C. GEN. STAT. § 128-26(x). The United States now seeks an Order declaring the Stipulation null and void because the circumstances under which the Stipulation was entered into have changed, rendering performance impossible and destroying the value of the performance promised, so that it may

proceed with enforcing the Writ of Execution against the liquidated proceeds of the account. The United States represents that it has attempted to contact Defendant's counsel several times and has received no response. Defendant did not respond to the United States' Motion.

Having considered the United States' motion and reviewed the record, the Court finds good cause to grant the requested relief and enters the following Order.

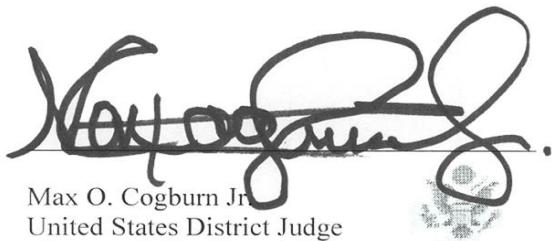
ORDER

IT IS, THEREFORE, ORDERED that:

- (1) The United States' Motion for Order Declaring Stipulation and Agreement Null and Void (#33), is **GRANTED**, and the Stipulation and Agreement Regarding Retirement Account (#32) filed in this case is declared null and void.
- (2) The North Carolina Department of the State Treasurer, Retirement Systems Division, shall liquidate and turn over the proceeds from Defendant's retirement account in accordance with the terms of the Writ of Execution issued in this case (#29).

SO ORDERED.

Signed: March 12, 2020



The image shows a handwritten signature in black ink, appearing to read "Max O. Cogburn Jr.". Below the signature, there is a small, faint, circular official seal or stamp.

Max O. Cogburn Jr.
United States District Judge